

REMARKS

This Amendment is submitted in response to the Office Action dated June 4, 2004. Claim 5 has been canceled. Claims 1-4 remain pending in the present application.

Applicants appreciate the Examiner's careful consideration and favorable treatment of claim 1 which is indicated as being allowable if properly rewritten.

Claim 3 has been objected to based on an informality in the preamble. Applicants have amended claim 3 to correct this and therefore, withdrawal of the objection is in order.

The lack of antecedent basis in claim 1 has been corrected also by the present amendment.

The Examiner has objected to claims 4 and 5 under 35 U.S.C. 112, second paragraph, as being indefinite since the Examiner contends it is an omnibus claim. Applicants have amended claim 4 to positively recite an apparatus that includes three separate sensors that perform the functions recited in claim 1 and also a logic AND-member for evaluating the first, second and third electrical signals and setting an error flag indicating a malfunction in the clutch-actuator if all three signals are affirmative. Applicants respectfully submit that based on the Examiner's favorable treatment of the corresponding method claim 1 and in view of the cited prior art, amended claim 4 recites an apparatus that is neither disclosed nor suggested by any of the prior art references, either taken alone or in combination, and therefore, should be passed to issue. In addition, amended claim 4 is presented in the form of an apparatus type claim and as amended, is clearly not an omnibus type claim. Thus, the Examiner's original concerns are clearly obviated by the present amendment to claim 4 and therefore, should be withdrawn. Accordingly, reconsideration and allowance of claim 4 are respectfully requested.

Claim 1 has been indicated as containing allowable subject matter if amended to overcome the rejection under 35 U.S.C. 112. As previously-mentioned, Applicants have amended claim 1 in view of the Examiner's comments and as amended, claim 1 should be allowed.

Claims 2 and 3 should be allowed as depending from what should be an allowed independent claim 1.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

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Respectfully submitted,

By 

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